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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,011	02/15/2007	Klaus Worgull	3702	6846
7590 Striker, Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
DENTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
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10/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,011

Applicant(s)

WORGULL, KLAUS

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 7-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4 and 7-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 November 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 7, 2010 has been entered.

Claim Rejections - 35 USC § 112, 1st paragraph

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4 and 7-12 stand rejected under 35 U.S.C. 112, first paragraph, as
- a. failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, and/or
 - b. as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a

way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is respectfully submitted that the specifics of the adjusting structure are not sufficiently clear, and thus it is not clear how the device operates to adjust the cutting structure; for example, it is not clear how the lever 33, the spring 37 and the surrounding structure operate to provide the disclosed adjusting operation.

Further, the original disclosure does not appear to provide support for a cutting blade being driven "without contact-pressure force" as now set forth in claim 12. That is, it is not clear how the cutting blade can be moved without contact-pressure force, particularly a lateral contact-pressure force at the point(s) where the blade 5 is connected to the drive structure.

Claim Rejections - 35 USC § 112, 2nd paragraph

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4 and 7-12 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 11, the recitation "for receiving" renders the claim vague and indefinite as to whether the blade is received in the guide, and it is suggested to change "for receiving" to --that receives--; in line 13, the recitation "a cutting serration" is vague

and indefinite as to what disclosed structure it refers, particularly in view of the previous recitation of "cutting teeth" in line 8.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 7-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Oster, pn 2,253,195.

Oster discloses a device with almost every structural limitation of the claimed invention including:

one lower shearing blade (e.g., one occurrence of 11) and one upper shearing blade (e.g., another occurrence of 11) fixedly joined to one another (e.g., via the assembly structure), wherein each of said lower shearing blade and said upper shearing blade includes a shearing serration (e.g., 13, 13);

a slit disposed between said lower shearing blade and said upper shearing blade (e.g., the space between blades 11, 11 which is occupied by blade 9);

a cutting blade (e.g., 9) comprising cutting teeth (e.g., 12) and made from a flat material (e.g., see Fig. 3) and configured to drive in oscillation, wherein the slit is configured to form a guide for receiving the cutting blade, wherein the cutting blade is configured to oscillate between the lower and upper shearing blades, wherein the

cutting blade has a cutting serration on one end that corresponds to said shearing serrations on said lower shearing blade and said upper shearing blade;

[claim 4] wherein the cutting blade is provided with a parallel guide (e.g., e.g. 14);

[claim 8] wherein the hair cutting machine (which is an intended use and is not part of the claimed invention) is operated with a battery or with a rechargeable battery (16);

[claim 9] wherein the cutting head is in the form of a structural unit;

[claim 10] wherein the cutting head is lockable to the hair cutting machine;

[claim 11] wherein the cutting blade is configured to be driven to oscillate by a drive motor via a slaving device (e.g., the cutting blade has a substantially flat configuration and is thus considered to be configured as claimed);

[claim 12] wherein the cutting blade (5) is driven without contact-pressure force (e.g., this recitation, as best understood, is met in substantially the same manner as for the present invention).

Oster lacks:

a hair length cut adjuster configured such that the lower and the upper shearing blades can be adjusted relative to the cutting blade.

However, the Examiner takes Official notice that hair cutting length adjusters of various sorts are old and well known in the art and provide various well known benefits including facilitating various types of shaving to provide for a desired shaving experience and/or to achieve a desired appearance. Further, such adjustment mechanisms provide other well known benefits including facilitating blade

positioning/alignment to provide the desired cutting action and cutting relationship between the blades. Such adjustments are often made to accommodate replacement and/or worn blades. Therefore, it would have been obvious to one having ordinary skill in the art to provide a such a cutting length adjuster or more generally stated, a blade adjustment mechanism on the device of Oster to gain the well known benefits including those described above.

Further, Oster discloses a device with almost every structural limitation of the claimed invention but lacks:

- an explicit disclosure of hard sheet metal as set forth in claim 2;
- an explicit disclosure of the blade thickness as set forth in claim 3;
- a lubricant reservoir as set forth in claim 7.

Regarding claim 2, the Examiner takes Official notice it is old and well known in the art to make shaving components from hard metal sheet to gain the well known benefits including sturdiness and durability. Therefore, it would have been obvious to one having ordinary skill in the art to make components of the device of Oster from hard metal sheet to gain the well known benefits including those described above.

Regarding claim 3, it is noted that there are no relative dimensions given, and to make the device of Oster any size (i.e., to any scale) is well within the skill level of one having ordinary skill in the art.

Regarding claim 7, the Examiner takes Official notice that lubricant reservoirs in shaving devices are old and well known in the art and provide various well known benefits including treating the skin during shaving for various reasons including to

enhance shaving comfort. Bott, pn 2,194,465 discloses just one example of a lubricant reservoir on a shaving device. Therefore, it would have been obvious to one having ordinary skill in the art to provide a lubricant reservoir on the device of Oster to gain the well known benefits including those described above.

It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Oster further lacks:

[from claim 1] wherein the cutting blade is flat and has a thickness of approximately 0.1 to 1.0 mm.

However, it is respectfully submitted that the cutting blade of Oster is flat, and the specific thickness is matter of scale. That is, it is well within the skill level of one having ordinary skill in the art to make the device of Oster any size and thus meet include a range of sizes wherein the blade would fall within the claimed range. Therefore, it would have been obvious to one having ordinary skill in the art to provide a device of any desired size including a size wherein the claimed cutting blade thickness range is met.

Response to Arguments

8. Applicant's arguments filed April 7, 2010 have been fully considered but they are not persuasive for at least the reasons previously explained as well as the additional reasons described in the prior art rejection above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
September 30, 2010